

1 **GARCIA, ARTIGLIERE & SCHADRACK**
Stephen M. Garcia, State Bar No. 123338
2 sgarcia@lawgarcia.com
David M. Medby, State Bar No. 227401
3 dmedby@lawgarcia.com
One World Trade Center, Suite 1950
4 Long Beach, California 90831
Telephone: (562) 216-5270
5 Facsimile: (562) 216-5271

6 **HOWARTH & SMITH**
Don Howarth, State Bar No. 53783
7 dhowarth@howarth-smith.com
Suzelle M. Smith, State Bar No. 113992
8 ssmith@howarth-smith.com
Ames Smith, State Bar No. 283887
9 asmith@hovarth-smith.com
523 West Sixth Street, Suite 728
10 Los Angeles, California 90014
Telephone: (213) 955-9400
11 Facsimile: (213) 622-0791

12 *Attorneys for Plaintiff and Class Members*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
16

17 SALLIE CWIK, individually and on
behalf of others similarly situated,

18 Plaintiff,

19 vs.

20 HARVEST MANAGEMENT SUB LLC
21 and DOES 1 through 10, inclusive,

22 Defendants.

CASE NO. 2:12-CV-8309-DMG (JCx)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEYS' FEES,
COSTS AND EXPENSES, AND
AWARD OF CLASS
REPRESENTATIVE SERVICE
PAYMENT**

Date: November 1, 2013
Time: 9:30 a.m.
Courtroom: 7

1 Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Costs and
2 Expenses, and Award of Class Representative Payment (hereinafter "Motion"),
3 pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b), came on
4 regularly for hearing on November 1, 2013, in the above-captioned court. All parties
5 were represented by counsel.

6 Having considered the papers filed by the parties, oral argument of counsel, and
7 the relevant statutory and case law, the Court GRANTS Plaintiff's Motion and finds
8 and ORDERS as follows:

9 1. This Court has jurisdiction over the subject matter of this litigation,
10 Defendant, and the Collective Action Plaintiffs.

11 2. Notice of the requested award of attorneys' fees and reimbursement of
12 expenses was directed to Collective Action Plaintiffs in a reasonable manner, and
13 complies with all applicable legal requirements including but not limited to 29 U.S.C.
14 §216(b).

15 3. Collective Action Plaintiffs and any party from whom payment is sought
16 have been given the opportunity to object and no Collective Action Plaintiffs have
17 objected to any aspect of the proposed Settlement, including the request for attorneys'
18 fees and reimbursement of expenses.

19 4. The requested award of \$1,875,000 in attorneys' fees is supported by the
20 percentage of the common fund method, as it is equal to this Circuit's benchmark of 25
21 percent of the total value of the Settlement to the Class (\$7.5 million). *See, e.g.,*
22 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002).

23 5. The amount of fees requested is also fair and reasonable as analyzed under
24 the lodestar method. The Court has reviewed the hours devoted to this case by Class
25 Counsel and concludes that they are reasonable. The Court has reviewed the hourly
26 rates used by Class Counsel in calculating their lodestar fees and concludes that these
27 rates are appropriate for attorneys in this locality of Class Counsel's skill and
28

1 experience. The Court notes that the raw lodestar is being used with a multiplier of
2 approximately 4.54 in the lodestar cross-check analysis, and finds that this multiplier is
3 justified by the risk Class Counsel undertook and the excellent result that they achieved
4 for their clients, among other factors. Moreover, the multiplier will decline as Class
5 Counsel continue to work on the case and monitor the effectuation of the settlement.

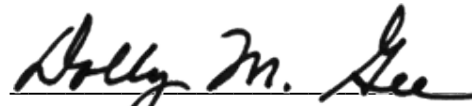
6 6. The \$25,000 in litigation costs and expenses requested by Class Counsel
7 exceeds the amount of costs and expenses actually incurred by Class Counsel, which
8 have been adequately documented and were reasonably incurred for the benefit of the
9 Class, and the Court finds that reimbursement of these costs and expenses is justified.

10 7. The Court finds and determines that the award of \$5,000 to lead Plaintiff
11 Sallie Cwik for her services as the Class Representative, in addition to her individual
12 Settlement Shares, is fair and reasonable.

13 Therefore, Class Counsel are hereby awarded attorneys' fees in the amount of
14 \$1,875,000 and reimbursement of costs and expenses in the amount of \$25,000. The
15 Class Representative Sallie Cwik is hereby awarded \$5,000 for her services as Class
16 Representative.

17 **IT IS SO ORDERED.**

18
19 DATED: November 5, 2013


DOLLY M. GEE
UNITED STATES DISTRICT JUDGE